

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

FLIGHT OPTIONS, LLC and
FLEXJET, LLC,

Plaintiffs and Counter-Defendants,

v.

No. 1:16-CV-00732

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, LOCAL 1108; INTERNATIONAL
BROTHERHOOD OF TEAMSTERS; and
BROTHERHOOD OF
TEAMSTERS, AIRLINE DIVISION,

OPINION & ORDER
[Resolving Doc. [45](#)]

Defendants and Counter-Plaintiffs.

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

On April 22, 2016, Counter-Plaintiffs International Brotherhood of Teamsters et al. (“Pilots Union”) filed a motion for preliminary injunction and temporary restraining order against Counter-Defendants Flight Options, et al. (“Carriers”).¹ On May 25, 2016, this Court granted Pilots Union’s preliminary injunction.² In granting Counter-Plaintiffs’ counterclaim, the Court ordered Carriers to accept the integrated seniority list, rescind the voluntary separation package, and bargain in good faith with Counter-Plaintiffs.³

On June 8, 2016, Counter-Defendants Carriers filed an appeal from this Court’s order to the Sixth Circuit Court of Appeals.⁴ On September 14, 2016, Counter-Plaintiffs Pilots Union filed a motion for an injunction bond pending the court of appeal’s decision on whether this Court properly issued the preliminary injunction.⁵

¹ Doc. [10](#). Counter-Defendants opposed. Doc. [13](#). Counter-Plaintiffs replied Doc. [18](#).

² Doc. [33](#).

³ *Id.* at 17.

⁴ Doc. [40](#). Counter-Defendants’ appeal is now pending before the Sixth Circuit.

⁵ Doc. [45](#). The Pilots Union request bond out of caution because Carriers have argued on appeal that this Court erred by failing to set bond under [Fed. R. Civ. P. 65\(c\)](#) and the [Norris-LaGuardia Act, 29 U.S.C. § 107\(e\)](#). Doc. [45-1](#) at 1.

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On October 19, 2016, the Court asked that the parties file position papers on the appropriate bond. The parties each filed proposals.⁶ Counter-Plaintiffs Pilots Union requests that bond be set at no more than \$50,000.⁷ Counter-Defendants Carriers request \$150,000.⁸

“[T]he amount of a security bond rests in the sound discretion of the district court.”⁹

[Federal Rule of Civil Procedures 65\(c\)](#) and the [Norris-LaGuardia Act](#) inform imposition of bond in this case. Under the Federal Rules, “[t]he court may issue a preliminary injunction or a temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained.”

The Norris-LaGuardia Act provides:

No temporary restraining order or temporary injunction shall be issued except on condition that complainant shall first file an undertaking with adequate security in an amount to be fixed by the court sufficient to recompense those enjoined for any loss, expense, or damage caused by the improvident or erroneous issuance of such order or injunction, including all reasonable costs (together with a reasonable attorney’s fee) and expense of defense against the order or against the granting of any injunctive relief sought in the same proceeding and subsequently denied by the court.¹⁰

The Carriers fail to present evidence of any expenses directly associated with the actions the Court ordered Carriers to take in its preliminary injunction order. The Carriers do not allege any losses associated with the order to bargain with the Union, and admit that any damages arising from accepting the integrated seniority list “are too speculative . . . to provide a concrete

⁶ Counter-Plaintiffs, Doc. [50](#). Counter-Defendants, Doc. [49](#).

⁷ Doc. [50](#) at 1.

⁸ Doc. [49](#) at 3.

⁹ *Div. No. 1, Detroit, Bhd. of Locomotive Engineers v. Consol. Rail Corp.*, 844 F.2d 1218, 1226 (6th Cir. 1988) (citing *Roth v. Bank of Commonwealth*, 583 F.2d 527 (6th Cir. 1978); *Urbain v. Knapp Mfg. Co.*, 217 F.2d 810, 815 (6th Cir. 1954)).

¹⁰ [29 U.S.C.A. § 107\(e\)](#). The main distinction between Fed. Rule Civ. P. 26(c) and the Norris-LaGuardia Act is that the latter requires the Court to consider attorney fees in setting bond.

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amount.”¹¹ The Carriers posit that rescinding the voluntary separation package cost them “approximately \$50,000,” but admit that they “cannot state an exact number” and provide no evidence for this estimate.¹² Without more support, the Court declines to include the speculative \$50,000 loss in setting bond.

As for attorney fees and costs, the Carriers argue that they have spent \$135,196.50 in defense of Pilots Union’s preliminary injunction.¹³ The Carriers seek an injunction bond, however, “of only \$125,000 in combined attorney’s fees and costs.”¹⁴ However, the Plaintiff Carriers filed this action seeking injunctive relief for the Carriers. The Carriers do not well establish that the incurred attorney’s fees resulted from the Union’s responding effort to obtain injunctive relief. Although \$125,000 seems somewhat high, Carriers’ counsel has provided adequate billing records to support their request.¹⁵

Accordingly, bond is set at \$125,000.

IT IS SO ORDERED.

Dated: October 28, 2016

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE

¹¹ Doc. [49](#) at 4-5.

¹² *Id.*

¹³ Doc. [49](#) at 5. This amount includes \$134,576.00 in attorney fees and \$620.50 for a copy of the preliminary injunction hearing transcript. *Id.* at 6-7.

¹⁴ *Id.* at 7.

¹⁵ See Doc. [49-1](#) (affidavit of Counter-Defendant Carriers’ counsel); Doc. [49-3](#) (attorney billing records).